

## REMARKS

**Allowable Subject Matter**

In the May 13, 2005 Office Action claims 6-7 and 11-14 were found allowable.

**Rejection of Claims and Traversal Thereof**

In the May 13, 2005 Office Action:

claims 1-5, 8-10 and 15-16 were rejected under 35 U.S.C. §112, second paragraph.

These rejections are traversed and reconsideration of the patentability of the pending claims is therefore requested in light of the following remarks.

**Rejection under 35 U.S.C. §112, second paragraph**

Claims 1-5, 8-10 and 15-16 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

According to the Office:

"Claims 1 and 16 are vague and indefinite because the limitation "according to the deviation of the measured value of at least one non-optical property from a given reference value for a reference-composition " is unclear. . . . The reference-composition must be a known or identifiable reference-composition in order for the process to be practiced."

Initially it should be noted that in rejecting a claim under the second paragraph, of 35 U.S.C. §112, it is incumbent on the Office to establish that one of ordinary skill in the pertinent art, when reading the claims in light of the support specification, would not have been able to ascertain with a reasonable degree of precision and particularity the particular area set out and circumscribed by the claims. *In re Wu*, 10 USPQ2d 2031 (BPAI 1989).

The object of the present invention is based on monitoring spinning solutions so that concentration of the components in the spinning solution can be quickly adjusted according to an optimal concentration of each component. For example, at page 7, in the last paragraph, there is a

discussion regarding taking a measurement of a non optical property in a working solution and then the measuring device sends the measured value to a microprocessor wherein the measured value is compared to a value determined from a reference standard solution to determine the difference from the measured value of the working solution and that of the standard solution. This measurement and comparison step is further discussed on page 8, wherein the concentration of the evaporated solution is measured and then this measurement is compared with a reference value from a known and optimal concentration.

Clearly, this application was originally written in German and then subsequently translated into English. In the states, we usually use the term "standard value or solution" but clearly, the German equivalent is the term "reference."

Notably, the numerical value of the non-optical property is a function of the concentration. Thus, one skilled in the art could easily prepare a standard curve that includes values for different standardized concentration, both above and below the optimal concentration. The optimal value of the aminoxide aqueous solution is thus known ahead of time and with the standardized curve, it can easily be determined how the measured working aminoxide solution needs to be adjusted by comparing the determined value from the working solution against the values in the standardized curve.

Applicants submit that the definiteness of the language employed must be analyzed - not in a vacuum, but in light of the teaching of the prior art and of the disclosure as it would be interpreted by one possessing the ordinary level of skill in the art. Applicants further submit that the quantitative analysis described in the present invention is known and understandable to most undergraduate chemistry student and thus meets all requirements of definiteness.

Accordingly, applicants request the withdrawal of this rejection under 35 U.S.C. §112, second paragraph in light of the amendment to the claims herein.

### Conclusion

Applicant has satisfied the requirements for patentability. All pending claims are free of the art and fully comply with the requirements of 35 U.S.C. §112. It therefore is requested that Examiner Del Sole reconsider the patentability of all pending claims in light of the distinguishing remarks herein and withdraw all rejections, thereby placing the application in condition for allowance. Notice of the same is

earnestly solicited. In the event that any issues remain, it is requested that the undersigned attorney be contacted at (919) 419-9350 to resolve same.

Respectfully submitted,



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